

California Proposition 218, Voter Approval Required Before Local Tax Increases (1996)

California Proposition 218, the **Voter Approval Required Before Local Tax Increases Initiative**, was on the November 5, 1996 ballot in California as an initiated constitutional amendment. The measure was **approved**.

The measure added Article XIII C and Article XIII D to the California Constitution, which required local governments to refer ordinances to impose taxes or property-related assessments, fees, and charges to the ballot for voter consideration.^[1]

The measure required a majority vote of the electorate for general taxes (taxes for general governmental purposes). It also required that elections for general taxes be held at regulation elections.^[1]

The measure required a two-thirds vote of the electorate for special taxes (taxes for specific purposes).^[1]

Proposition 218 prohibited property-related fees for general government service, including police and fire services, services not immediately available to property owners, programs unrelated to the property-related services.^[1]

Aftermath

California Cannabis Coalition v. City of Upland

See also: Upland Measure U and Laws governing local ballot measures in California

On August 28, 2017, the California Supreme Court ruled that the provision of Proposition 218 requiring local general taxes to go on the ballot during regular general elections rather than special elections did not apply to citizen initiatives. Specifically, the 5-2 ruling stated that Article XIII C, section 2, subdivision (b), of the California Constitution does not restrict the provision of the state's laws governing local initiatives that allows petitioners to collect enough signatures to qualify their initiative for a special election ballot. For cities and counties that follow the initiative process in state law, a petition with signatures equal to 10 percent of registered voters qualifies an initiative for the next general election ballot, while a petition with signatures equal to 15 percent of registered voters qualifies an initiative for a special election held between 88 and 103 days from petition certification. Charter cities are able to have their own process for initiatives which can differ from the state-set process.^[2] Proposition 218 added Article XIII C and Article XIII D to the state constitution. Article XIII C, section 2, also contains a voter approval requirement for local taxes and a two-thirds supermajority requirement for taxes earmarked for a specific purpose, such as education or transportation. The ruling did not say whether these provisions would still apply to citizen initiatives. The majority opinion made the following arguments to support this ruling:^[3]

- the people's initiative process is separate from the actions of *local government* as defined by Proposition 218;
- Article XIII C, section 2, of Proposition 218 does not explicitly mention initiatives;
- Article XIII C, section 2(d), was not intended to apply to initiatives either by proponents of Proposition 218 or by the voters that approved Proposition 218; and
- the court's obligation to "protect and liberally construe the initiative power and to narrowly construe provisions that would burden or limit its exercise" means it must err on the side of not applying restrictions to citizen initiatives.

The following five justices concurred with this ruling:^[3]

- Associate Justice Mariano-Florentino Cuéllar (majority opinion author)
- Chief Justice Tani Cantil-Sakauye
- Associate Justice Kathryn Mickle Werdegar
- Associate Justice Ming Chin
- Associate Justice Carol Corrigan

The following two justices dissented:^[3]

- Associate Justice Leondra Kruger (dissenting opinion author)
- Associate Justice Goodwin Liu

Reactions

Although the *California Cannabis Coalition v. City of Upland* ruling was specifically about Article XIII C 2(b)—the regular general election ballot requirement for general tax measures—the court case discussed Article XIII C as a whole, and the ruling raised questions about whether the other provisions of Article XIII C, section 2, apply to initiatives, including the two-thirds (66.67 percent) supermajority vote requirement for all taxes earmarked for a specific purpose. The initiative process for most cities and counties in California is indirect, which means the local governing body has a chance to approve any initiative with a sufficient number of signatures itself instead of sending it to the voters. Attorneys for the city argued in the case that this ruling could allow the indirect process to be used by city councils or county boards to cooperate with initiative petitioners to bypass the voter approval requirement for taxes entirely. The majority opinion declined to rule on whether or not this was a possibility.^{[3][4]}

California Proposition 218: Voter Approval Required Before Local Tax Increases



Election date

November 5, 1996

Topic

Direct democracy measures

Status

✔ Approved

Type

Constitutional amendment

Origin

Citizens

State Senator Scott Wiener (D-11) said, "It's hard to overstate how important this ruling is. Communities will now have a much easier time funding schools, transportation and other critical needs."^[4]

Jon Coupal, president of the Howard Jarvis Taxpayers Association (HJTA), said that the ruling could result in city councils and county boards collaborating with tax-increase advocates to use the initiative process to avoid tax measure restrictions that, according to the HJTA, are there to protect taxpayers. Coupal said, "I don't think there's any way we can sugarcoat this. This is a significant decision that will lead to unbridled collusion between local governments and special interest groups."^[4]

Coupal also said that the HJTA would seek a constitutional amendment to explicitly apply Proposition 218 restrictions to citizen initiatives.^[5]

Roger Jon Diamond, the Santa Monica attorney who represented the California Cannabis Coalition in the case, said that the ruling would not change the supermajority requirements for tax initiatives. Diamond said, "I believe that this does not affect one way or the other whether you need a two-thirds vote or simple majority."^[4]

Background

The lawsuit was originally filed over a medical marijuana dispensary initiative in Upland—a city in San Bernardino County. Initiative proponents collected enough signatures to qualify the measure for a special election ballot in 2015. The city council, however, voted to put the measure on the ballot for the general election in November 2016 instead, arguing that the initiative called for a licensing fee that amounted to a general tax and citing Article XIII C 2(d). The proponent group, California Cannabis Coalition, sued, resulting in the *California Cannabis Coalition v. City of Upland* ruling. Ultimately, city voters rejected the initiative, which was on the ballot as Measure U.

Bighorn-Desert View Water Agency v. Verjil

In 2006, the California Supreme Court ruled that the provisions of Proposition 218 apply to local water, refuse and sewer charges. This meant that a local jurisdiction cannot charge one group of water, refuse or sewer ratepayers in order to subsidize the fees of another group of water, refuse or sewer users.

Municipalities such as Palo Alto, subsequent to the 2006 court ruling, have had to reduce the amount they were charging businesses for water, refuse or sewer, and increase the amount they are charging to standard homeowners, upon recognizing that their charges to the two groups were disproportionate and therefore not allowed under Proposition 218.^[6]

Election results

Proposition 218 (1996)		
Result	Votes	Percentage
✔ Yes	5,202,429	56.55%
No	3,996,702	43.45%

Text of measure

Ballot title

The ballot title was as follows:^[7]

“ Voter Approval for Local Government Taxes. Limitations on Fees, Assessments, and Charges. Initiative Constitutional Amendment^[8] ”

Ballot summary

The ballot summary was as follows:^[7]

- “
- Limits authority of local governments to impose taxes and property-related assessments, fees, and charges. Requires majority of voters approve increases in general taxes and reiterates that two-thirds must approve special tax.
 - Assessments, fees, and charges must be submitted to property owners for approval or rejection, after notice and public hearing.
 - Assessments are limited to the special benefit conferred.
 - Fees and charges are limited to the cost of providing the service and may not be imposed for general governmental services available to the public.^[8]
- ”

Fiscal impact

The California Legislative Analyst's Office provided an estimate of net state and local government fiscal impact for Proposition 218. That estimate was:^[7]

“

- Short-term local government revenue losses of more than \$100 million annually.
- Long-term local government revenue losses of potentially hundreds of millions of dollars annually.

”

- Local government revenue losses generally would result in comparable reductions in spending for local public services.^[8]

Constitutional changes

See also: Article XIII C and Article XIII D of the California Constitution

Proposition 218 added Article XIII C and Article XIII D to the California Constitution. The following text was added:^[1]

ARTICLE XIII C

SECTION 1. Definitions. As used in this article:

- (a) "General tax" means any tax imposed for general governmental purposes.
- (b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.
- (c) "Special district" means an agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.
- (d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this

Sponsors

The Howard Jarvis Taxpayers Association (HJTA) sponsored the ballot initiative. HJTA described the measure as follows:^[9]

“ Proposition 218 came to the rescue of Proposition 13.

Proposition 13 was a law designed chiefly to protect property taxpayers. It put limits on how high and how fast property taxes could climb and required a vote of the people on new local taxes. After Proposition 13's success, bureaucrats looked for ways to raise revenues while avoiding Proposition 13's restrictions. They hit upon assessment districts, which had been historically used to fund capital improvements that directly benefited property. Over time, bureaucrats molded assessments into property taxes that avoided Proposition 13's restrictions.

Following the failure in the state legislature of 7 HJTA-sponsored bills over a 9-year period, the Howard Jarvis Taxpayers Association qualified Proposition 218 for the November 1996 ballot. It gave the people the right to vote on all local taxes, and required taxpayer approval of assessments and property related fees.^[8]

Related measures

- California Proposition 13 (1978)

Related lawsuits

- City of Paso Robles Water Use Fees Referendum, Measure A (November 2009)

See also

- California 1996 ballot propositions
- 1996 ballot measures
- List of California ballot measures
- History of Initiative & Referendum in California

BP Suggest a link

External links

- Official Voter Guide to Proposition 218
- Full text of Proposition 218
- November 5, 1996 California election results (*dead link*) (PDF)
- PDF of the paper version of the November 5, 1996 Ballot Propositions Voter Guide
- Bighorn-Desert View Water Agency v. Verjil
- Understanding Prop 218 from the Legislative Analyst's Office
- FAQ from the City of Los Angeles
- League of Women Voters analysis

Footnotes

1. *California Legislative Analyst's Office*, "Understanding Proposition 218," accessed August 29, 2017
2. For example, San Francisco's process is direct, and San Jose's requires signatures equal to 5 percent of registered voters to qualify for a general election and 10 percent to qualify for a special election.
3. *California Courts*, "*California Cannabis Coalition v. City of Upland*," accessed August 28, 2017
4. *San Diego Union Tribune*, "California Supreme Court suggests lower bar for passing tax increases through ballot initiatives," August 29, 2017
5. *Los Angeles Times*, "California Supreme Court: Local tax hikes proposed via initiative are different from those by elected officials," August 28, 2017
6. *Mercury News*, "Thanks for reducing waste in Palo Alto; now pay more for the good deed," March 7, 2012
7. *UC-Hastings*, "Proposition 218," accessed August 29, 2017
- 8.
9. *Howard Jarvis Taxpayers Association*, "Proposition 218," accessed August 29, 2017

Categories: California 1996 ballot measures | State ballots, 1996 | State Ballot Measure, November 5, 1996 | Approved, 1996
| Approved, November 5, 1996 | Direct democracy measures, California | Direct democracy measures, 1996
| Certified, direct democracy measures, 1996 | Taxes, California | Taxes, 1996 | Certified, taxes, 1996 | California 1996 ballot measures, certified
| Initiated amendment certified for the 1996 ballot